

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ZAKUNDA-ZE HANDBERRY, et al.,

Plaintiffs,

-against-

WILLIAM C. THOMPSON, JR., et al.,

Defendants.

**DECLARATION OF
TONYA THREADGILL**

96 CV 6161 (GBD/JCF)

I, Tonya Threadgill, declare that the following facts are true upon penalty of perjury pursuant to 28 U.S.C. § 1746.

1. I am the principal of East River Academy (“ERA”), the educational program on Rikers Island run by the New York City Department of Education (“DOE”). I have held this position since December 2013. I have been employed as a teacher and administrator on Rikers Island for the DOE and before that the New York City Board of Education since 1995. I have personal knowledge regarding the educational program offered by the DOE on Rikers Island, including those offered to the inmates at issue in *Handberry v. Thompson*, as well as the interrelationship between ERA and the New York City Department of Correction (“DOC”), which operates the jails at which ERA provides educational services to the *Handberry* inmates. (DOE and DOC are collectively referred to in this declaration as the “City Defendants.”) This declaration is submitted in support of the City Defendants’ application for confirmation of portions of Special Master Peter Leone’s *Third Report On the Status of Education Services for Inmates Aged 16-21 at Rikers Island*, revised July 2, 2018 (“Third Report” or “Report”; Docket No. 273-2) and in opposition to Plaintiffs’ Objections to Dr. Peter Leone’s Second and Third Monitoring Reports (Docket No. 284).

2. My attorney advises me that in its April 2006 decision, the U.S. Court of Appeals for the Second Circuit referred to the inmates at issue in *Handberry v. Thompson* as “eligible

inmates.” Accordingly, I use that term throughout this declaration. An eligible inmate is someone who meets the following criteria:

- a. is incarcerated at a correctional facility operated by DOC; and
- b. has been incarcerated for ten or more calendar days, or in the judgment of the warden of the inmate’s facility, is reasonably likely to be incarcerated for ten or more calendar days, plus an additional ten school days; and
- c. has not received a high school diploma or its equivalent; and
- d. is under 21 years of age on September 1 of the applicable school year; and
- e. if the inmate is 18-21 years of age, has indicated his desire to receive DOE-provided educational services while incarcerated at a DOC correctional facility.

See Handberry v. Thompson, 219 F.Supp.2d 525, 546 (S.D.N.Y. 2002), *aff’d in part, vacated in part and remanded in part*, 446 F.3d 335 (2d Cir. 2006); *see also*, Declaration of Timothy Lisante dated October 12, 2007 (“Lisante Decl.”), Ex. A (Education Plan) at 2.

3. East River Academy (“ERA”), the school program I run on Rikers Island, is operated by DOE’s District 79: Alternative Schools and Programs (“D79”). D79 is responsible for running a variety of educational programs for students under 21 who have experienced an interruption in their studies and helps those students: (1) stay on track to obtain a high school diploma or high school equivalency diploma; (2) build the skills to succeed in post-secondary opportunities; and (3) gain the social-emotional skills necessary to become confident and productive members of society. D79 programs include programs for court-involved youth, student parents, students studying for the high school equivalency exam, and ERA, DOE’s educational program for eligible inmates on Rikers Island.

4. My responsibilities include: (a) functioning as the liaison between DOE and DOC on issues concerning educational services provided by DOE to inmates in DOC custody on Rikers Island; (b) running ERA; and (c) advising DOE on issues impacting its provision of educational services on Rikers Island.

EDUCATIONAL SERVICES

5. I have reviewed all of Dr. Leone's reports issued in regard to his monitoring activities in *Handberry v. Thompson*, including Dr. Leone's Second and Third Reports (Docket Nos. 273-1 and 273-2), as well as the Court's current injunction order issued on March 31, 2016 (Docket No. 250). Because Dr. Leone's monitoring activities ended with the 2018 Spring semester, I have largely confined this declaration to that period as it is the period covered by Dr. Leone's Third Report. During the 2017-18 school year, DOE enrolled 1341 eligible inmates at ERA, with an average daily enrollment of 301 students.

6. Average length of enrollment in instructional days was 29 days last school year. The high turnover of eligible inmates and the short duration of incarceration for the vast majority of them are well documented in this litigation and continue to be an ongoing challenge to ERA.

7. During the 2017-18 school year, ERA made educational services available each school day (unless closed for unforeseen circumstances, such as snow storms or TSOs [technical search operations]) at the following jails: (a) Robert N. Davoren Center ("RNDC"); (b) Eric M. Taylor Center ("EMTC"); (c) Rose M. Singer Center ("RMSC"); (d) George Motchan Detention Center ("GMDC"); (e) Otis Bantum Correctional Center ("OBCC"); and (f) George R. Vierno Center ("GRVC"). See table below. At GRVC Secure and OBCC ESH, ERA made three hours of daily educational services available in the morning between 8am – 11:35am. There was also a comparable afternoon session at OBCC ESH. In addition, ERA made educational services available at the North Infirmary Command ("NIC") on a per session basis in the afternoon each school day. ERA also assigned a teacher to the West Facility ("West") on the same per session basis for any eligible inmate housed at West who elected to receive educational services.

School Site	Hours of Instruction	Class/Teacher/Room Schedules	Student Population
RNDC Main	8am – 2:20pm	Exhibit A	Adolescent males, including TRU and Second Chance
RNDC Annex	8am – 2:20pm	Exhibit B	Adolescent males, including TRU, Second Chance, MO and PC
RMSC	8am – 2:20pm	Exhibit C	All Females – adolescent and young adults
EMTC	8am – 2:20pm	Exhibit D	Young adult males - City Sentenced
GMDC Main	8am – 2:20pm and afternoon session	Exhibit E	Young adult males
GMDC Peace	8am - 2:20pm	Exhibit F	Young adult males

Last school year, all eligible inmates who were 16 and 17 years old (aka adolescents) were housed together at jails located on Rikers Island. Regardless of housing unit, all adolescents received educational services in a classroom setting and all received more than three hours each school day. Currently, all adolescents are housed at the Horizon Secure Juvenile Detention Facility, pursuant to the Raise the Age legislation, which went into effect on October 1, 2018. Thus, ERA no longer educates any adolescents, regardless of whether they are pretrial or post-adjudication.

8. To serve students, ERA employed the following staff members across all sites last school year:

- 4 assistant principals
- 48 licensed content-area teachers
- 13 licensed special education teachers
- 1 reading teacher
- 17 guidance counselors, social workers and psychologists
- 1 speech teacher
- 10 educational paraprofessionals
- 25 administrative professionals

All ERA teachers are licensed by the New York State Education Department and receive high-quality, tailored, professional development throughout the school year. D79 also provides professional development training to transitional services counselors.

9. While ERA is a multi-sited program, staff in D79 continuously work to consolidate services such that if an eligible inmate is transferred from one facility to another, his education will remain consistent across all of the sites. For example, teachers in all sites use a common pacing calendar that describes a range of topics, broken down into short modules, to be taught in each core subject area for every day of the school year. Additionally, ERA utilized program-wide assessments via teacher generated assessments, quizzes and tests.

A. All students are offered a minimum of 3 hours of educational services each school day.

10. Last school year, ERA offered more than three hours of academic instruction each school day to all members of the *Handberry* class – and in most instances, ERA offered more than five hours. See paragraph 7 above, including Exs. A-F. Although not required by the

federal court order in this case, last school year, all ERA school sites offered instruction pursuant to N.Y. Education Law § 3202(7) and 8 NYCRR 118.4 in reading, mathematics and written and oral communication. All high school students typically participated in core subject area courses, and adolescent students frequently received extended periods in English Language Arts. All ERA students had and continue to have an opportunity to elect to attend credit-bearing classes toward obtaining high school credits while incarcerated that count toward a regular high school diploma. As has been the practice for many years, although the instruction and course work is provided by ERA, the high school diploma is actually granted by the eligible inmate's home school in the community. In addition, a student may also work toward a high school equivalency diploma through non-credit bearing coursework.¹ This is the diploma pursued by most ERA students, and they focus on coursework in areas needed to pass the exam. Many students take courses that meet the requirements for both types of diplomas.

11. As documented by the Special Master, class sizes last school year were small and were generally composed of 15 or fewer students at all sites. This continues to be the case. All students were and continue to be offered a minimum of three hours of instruction each school day. In particular, students in special housing units such as Second Chance Housing ("Second Chance") and the Transitional Restorative Unit ("TRU") were offered three or more hours of daily instruction from dedicated ERA teachers.

B. Enrollment Procedures, Records Review and Educational Programming

12. On the first day that an eligible inmate appears at ERA, the inmate meets with an orientation team, consisting of a transition counselor and/or community associate who provides information about the school programs available at ERA, reviews the student's transcript and

¹ A high school equivalency diploma ("HSE") will be issued to a student who passes the test assessing secondary completion ("TASC"). This replaces the prior test, the general educational development test or GED.

educational history, and discusses information regarding student rights and post-discharge transition. Next, the student is given the Test of Adult Basic Education (“TABE”) placement test to determine, among other things, the student’s academic strengths and weaknesses and functional grade level. DOE also reviews its computerized records for the student, including those pertaining to special education, to determine whether the eligible inmate is a student with a disability. On the basis of the initial review of computerized DOE records and the placement test results, ERA creates an initial program of classes for the student, which s/he is eligible to begin by the next school day. To the extent feasible, ERA tries to provide the student with a program of coursework comparable to that s/he last received. As noted by the Special Master, ERA retrieves the transcript of each of its students.

13. If it is determined that the eligible inmate is a student with a disability, ERA provides services to the student in the same manner as it has for many years. When the student enrolls, s/he is immediately placed in a program and simultaneously, ERA staff reviews the Special Education Student Information System (“SEGIS”) (a DOE computer system that pertains to students with disabilities) (1) to confirm that the student is a student with an IEP, and (2) to determine whether an electronic IEP is readily accessible. Almost all students have their last IEPs stored in SEGIS. If a student is not in SEGIS, ERA will request the student’s IEP from the prior educational placement. ERA will review the student’s IEP and a Special Education Plan (“SEP”), formerly called a Temporary Education Plan (“TEP”), is created that takes into account the IEP mandates and reflects the special education program requirements to be implemented at ERA. A conference, at which the parent is invited to attend, is held within 30 days of enrollment, and the SEP is faxed into SEGIS and maintained in the student’s file. Creation and use of the SEP at ERA remains consistent with the Standard Operating Procedures

collaboratively developed by the New York State Education Department, the teachers' union, the United Federation of Teachers, and the DOE, and functions as the student's individualized education program ("IEP") during incarceration. Last school year, ERA wrote 289 SEPs, and completed six reevaluations.

14. A range of special education services was available for ERA students last school year. This is also true this school year. Students who need it, receive intensive literacy supports taught by special education licensed teachers in small groups. Other services are also available to ERA students with disabilities depending on need, including but not limited to specialized instruction provided by or through a special education teacher, special education teacher support services, collaborative team teaching, skills development, etc. Additionally, related services, such as counseling and speech, are also delivered to students.

15. In addition, DOC notified me on a number occasions last school year that they were transferring 18-21 year olds to jails at which ERA provided educational services because those inmates had requested access. ERA followed up with the transferred eligible inmates by providing them with access to educational services. I further note that last school year adolescents were always housed at jails at which ERA provided educational services.

C. Restricted Housing Units

16. The housing units last school year that were denominated as restrictive housing were Enhanced Supervision Housing ("ESH") at OBCC, and the Secure Housing Unit ("Secure") at GRVC. Only inmates who are 18 or older were placed in these units.

17. The adolescents who were placed last school year in TRU and Second Chance Housing, both of which are special housing units, attended ERA in the Annex in their own classrooms. They had a 5+ hour program each school day. See Exhibit B.

18. Last school year, ERA made available a 3+ hour program of general and special education each school day to students in ESH. We are doing the same this school year. There are two instructors in this unit.

19. In addition, ERA made available a comparable 3+ hour daily educational program at GRVC last school year, and is doing the same this school year.

20. Finally, eligible inmates who are housed in mental observation units or protective custody were and continue to be provided 5+ hours of educational services each school day.

EDUCATIONAL OUTCOMES

21. In addition to working to create a unified program across all ERA sites, ERA has achieved many academic milestones over the past several years.

22. Last year, ERA administered 97 Regents exams. The pass rate was 48% overall, with a 62% pass rate for students with disabilities.

23. In addition, credit accumulation increased at ERA. Last school year, the mean average number of credits earned was 3.8.² Additionally, almost all students on a high school track earned 5 or more credits and some earned 10 or more credits.

24. Last school year, 71 ERA students were awarded their high school equivalency diploma, which amounts to a pass rate of over 75%.

OTHER POSITIVE OUTCOMES AND PROGRAM SUCCESSES

25. In addition to educational outcomes at ERA, staff have been working to facilitate smoother transitions for students upon returning to the community. ERA established an off-

² The mean average number of credits earned last year at ERA by students with disabilities was 3.8, which is the same as for all ERA students combined.

Island transition team to help formerly disconnected students visit D79 Referral Centers for High School Alternatives (“Referral Centers”). Referral Centers are borough-based offices staffed with guidance counselors, social workers and other staff members who work to help students find their best pathway to a diploma or HSE by (1) engaging in an evaluation of student transcripts; (2) exploring all possible academic tracks available to students; (3) discussing options for educational placements and school enrollment; and (4) making other appropriate referrals to child care, social work services, drug rehabilitation programs and housing support. ERA transition specialists follow discharged students for up to 6 months after release and work to reengage the students both in school and the world of work.

26. Career and Technical Education (“CTE”) has also been developed at ERA. Last school year, students earned CTE credentials (e.g., OSHA certifications, food handler certificates) and these offerings are growing each year. Currently, ERA offers ongoing CTE courses in the areas of barbering, culinary arts, carpentry, building maintenance, and horticulture.

I declare upon penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing statements are true and correct.

Dated: December 18, 2018
East Elmhurst, NY



Tonya Threadgill
Principal, East River Academy
District 79: Alternative Schools and Programs
New York City Department of Education